

# **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**

## **INITIAL STATEMENT OF REASONS**

TITLE 13, CALIFORNIA CODE OF REGULATIONS  
DIVISION 2, CHAPTER 7, AMEND ARTICLE 1, REPEAL ARTICLES 2 THROUGH 10 AND ARTICLE 15

### **CARGO SECUREMENT STANDARDS (CHP-R-2006-07) (OAL File Number)**

#### **PURPOSE OF REGULATORY ACTION**

California Vehicle Code (VC) Section 2402 authorizes the Commissioner of the California Highway Patrol (CHP) to make and enforce regulations as necessary to carry out the duties of the CHP. AB 3011 as introduced by Assembly Member Benoit adds Section 34500.3 to the VC. As adopted, section 34500.3 VC states that the CHP shall adopt rules and regulations that are designed to promote the safe operation of vehicles, regarding cargo securement standards. The regulations adopted pursuant to this section shall be consistent with the securement regulations adopted by the United States Department of Transportation (USDOT) in Part 393 (commencing with Section 393.1) of Title 49 of the Code of Federal Regulations, as those regulations now exist or are amended in the future. Currently, California's loading regulations are contained in Title 13, California Code of Regulations (13 CCR), Sections 1300 through 1425.

With the addition of section 34500.3 to the VC, AB 3011 repealed Chapter 2 (commencing with Section 29200 VC), Chapter 3 (commencing with Section 29800 VC), and Chapter 4 (commencing with Section 30800 VC) of, and Article 3 (commencing with Section 31500 VC), Article 4 (commencing with Section 31510 VC), Article 5 (commencing with Section 31520 VC), and Article 6 (commencing with Section 31530 VC) of Chapter 5 of, Division 13, VC. In the approved emergency rulemaking currently in effect, the CHP inadvertently requested the repeal of 13 CCR, Article 11, Sections 1420 through 1425, specific to the securement and transportation of liquid in collapsible containers. The statutory authority to adopt regulations for these specific containers was not repealed by AB 3011. Therefore, this rulemaking retains and re-numbers the regulatory sections specific to these containers in regulation.

The federal government established the Federal Motor Carrier Safety Administration (FMCSA) as a separate entity within the U.S. Department of Transportation on January 1, 2000 and has, as its primary mission, the reduction of accidents, injuries, and fatalities involving large trucks and buses. The FMCSA administers several programs to achieve its mission, including the Motor Carrier Safety Assistance Program (MCSAP), a federal grant program that provides states with financial assistance to enforce federal motor carrier safety regulations. In 2002, FMCSA adopted new regulations, Title 49 of the Code of Federal Regulations (Title 49), and gave states three years to conform to those regulations or risk loss of federal funds.

In addition, FMCSA mandated in its regulations all states adopt federal load securement criteria for motor carriers engaged in interstate commerce. If California fails to comply, this could potentially result in the loss of MCSAP funds, which directly support the CHP's commercial vehicle enforcement program. California has yet to conform to regulations FMCSA adopted in 2002.

Prior law required the CHP to adopt and enforce regulations relating to the safe loading, securement, and transporting of logs and poles, as specified; safe loading, securement, and transporting of lumber and lumber products, as specified; safe loading, securement, and transporting of baled hay and baled straw, as specified; proper loading and securing of metal products, as specified; safe loading, securement, and transportation of loads consisting of baled cotton, baled paper, and baled jute, as specified; and safe loading, securement, and transportation of loads of wooden boxes, as specified. Prior law prohibited a vehicle upon which a trailer is loaded from being driven or moved on a highway unless the trailer was securely bound to the vehicle, and logging dollies carried on a truck to be secured, as specified. AB 3011 repealed these provisions. Pursuant to AB 3011, the CHP is required to adopt rules and regulations to promote the safe operation of vehicles. This includes standards for safely securing cargo that are consistent with the federal cargo securement rules listed in Title 49, Code of Federal Regulations, Part 393.

Newly enacted Section 34500.3 VC exempts and specifies loading requirements for a public utility company or a local public agency that provides electrical or telephone service, or the California Department of Transportation (DOT), when transporting poles, and exempts farmers transporting his or her own hay upon a highway if the load is secured in a safe manner and it is incidental to his or her farming operation. Enacting such legislation conforms state regulation applicable to intrastate and interstate commercial motor carriers, to the current national standards adopted by the Federal Motor Carrier Safety Administration. The CHP is designated to enforce these regulations. This will provide interstate drivers and motor carriers with seamless uniformity between state and federal transportation regulations, thereby, permitting interstate motor carriers to operate under one set of rules.

This rulemaking will enhance the competitiveness of California by eliminating regulations which represent a negative impact on businesses and the economy in conflicting with federal regulations. These changes will also enhance public safety and unify regulations for all carriers, intrastate and interstate alike. Proponents of AB 3011, such as the California Teamsters Public Affairs Council (Teamsters) and the California Farm Bureau Federation (Farm Bureau), argue this bill is necessary to allow CHP to address commercial trucks coming across state borders in violation of safety standards. They further assert commercial trucks entering the state should be required to meet the same safety standards domestic carriers must comply with in order to do business with California.

This rulemaking action adopts cargo securement standards which are essentially identical to newly adopted federal cargo standards. Also, this rulemaking will allow the CHP to comply with the requirements of newly enacted California Vehicle Code Section 34500.3, by remaining consistent with regulations adopted by the United States Department of Transportation (USDOT).

In adopting Section 34500.3 VC, the Legislature has mandated California into substantial compliance with FMCSA requirements that pertain to securing cargo. States are required to conform to these federal requirements or risk losing federal MCSAP funds. California's MCSAP allocation for the 2006/07 fiscal year is \$22 million. These federal MCSAP grants are used for commercial vehicle enforcement and training. The loss of all or a portion of this funding would in itself represent a negative impact on public safety.

AB 3011 will also create an exemption for hay growers, hauling their own hay, in the course of conducting their farming operations. This exemption allows them to continue securing their hay loads using the same tie-down methods and safety measures as historically authorized. This exemption is in recognition that the new federal load securement regulations do not specifically address the uniqueness of this commodity. Commercial or for-hire hay haulers will be required to comply with the new load securement regulations on January 1, 2007, as mandated by legislation.

## **SECTION BY SECTION OVERVIEW**

### **1300 Loading Regulations**

This amendment will adopt language identical to that language contained in Title 49, Code of Federal Regulations (49 CFR), commencing with Part 393, Subpart I – Protection Against Shifting and Falling Cargo.

### **Chapter 7. Loading Regulations**

#### **Article 1. Binders**

**Section 1300. Scope of Regulations.** The California Highway Patrol proposes to amend this regulation to directly require compliance with federal motor carrier safety regulations as they now exist or are hereafter amended. Motor carriers and drivers shall be subject to the federal cargo securement regulations contained in Title 49, Code of Federal Regulations, Part 393, to the extent specified in this article. Unless otherwise specified, all references to 49 CFR in this article are those published on April 1, 2006.

This provision allows the Commissioner to grant exemptions from any of the requirements of this proposed rulemaking. No exemption will be granted if, in the opinion of the Commissioner, the exemption would compromise the safety requirements of these regulations.

**Section 1301. Definitions.**

The California Highway Patrol proposes to repeal this regulation.

**Section 1302. General Requirements.**

The California Highway Patrol proposes to repeal this regulation.

**Section 1303. Specifications.**

The California Highway Patrol proposes to repeal this regulation.

**Section 1304. Testing and Certification.**

The California Highway Patrol proposes to repeal this regulation.

**Section 1304.1. Test Samples.**

The California Highway Patrol proposes to repeal this regulation.

**Section 1305. Condition and Use.**

The California Highway Patrol proposes to repeal this regulation.

**Article 2. Baled Hay and Straw-Loading, Securement, and Transportation.****Section 1310. Scope of Regulations.**

The California Highway Patrol proposes to repeal this section.

**Section 1311. General Provisions.**

The California Highway Patrol proposes to repeal this section.

**Section 1312. Construction of Loads.**

The California Highway Patrol proposes to repeal this section.

**Section 1313. Securement of Loads.**

The California Highway Patrol proposes to repeal this section.

**Section 1314. Alternate Securement of Jumbo Bales.**

The California Highway Patrol proposes to repeal this section.

**Section 1315. Alternate Method of Compliance.**

The California Highway Patrol proposes to repeal this section.

**Article 3. Baled Cotton, Paper, and Jute-Securement for Transportation.****Section 1320. Scope of Regulations.**

The California Highway Patrol proposes to repeal this section.

**Section 1321. Definitions.**

The California Highway Patrol proposes to repeal this section.

**Section 1322 General Provisions.**

The California Highway Patrol proposes to repeal this section.

**Section 1323 Securement.**

The California Highway Patrol proposes to repeal this section.

**Section 1324 Load Securement.**

The California Highway Patrol proposes to repeal this section.

**Section 1325 Alternate Method of Compliance.**

The California Highway Patrol proposes to repeal this section.

**Article 4. Logs and Poles-Loading, Securement, and Transportation.**

**Section 1330 Scope of Regulations.**

The California Highway Patrol proposes to repeal this section.

**Section 1331 Definitions.**

The California Highway Patrol proposes to repeal this section.

**Section 1332 General Provisions.**

The California Highway Patrol proposes to repeal this section.

**Section 1333 Pyramid Loading of Logs or Poles on Flatbed or Rail-Equipped Vehicles.**

The California Highway Patrol proposes to repeal this section.

**Section 1334 Nonpyramid Loading of Logs or Poles on Flatbed or Rail-Equipped Vehicles.**

The California Highway Patrol proposes to repeal this section.

**Section 1335 Binding of Logs or Poles on Flatbed or Rail-Equipped Vehicles.**

The California Highway Patrol proposes to repeal this section.

**Section 1336 Loading of Logs or Poles on Vehicles with Bunks.**

The California Highway Patrol proposes to repeal this section.

**Section 1337 Binding of Logs or Poles on Vehicles with Chock Blocks.**

The California Highway Patrol proposes to repeal this section.

**Section 1338 Loading and Binding of Logs or Poles on Vehicles with Bunk Stake Assemblies.**

The California Highway Patrol proposes to repeal this section.

**Section 1339 Alternate Method of Compliance.**

The California Highway Patrol proposes to repeal this section.

#### **Article 4.5. Bunk Stake Assemblies**

##### **Section 1339.1 Definition.**

The California Highway Patrol proposes to repeal this section.

##### **Section 1339.2 Identification Markings.**

The California Highway Patrol proposes to repeal this section.

##### **Section 1339.3 General Requirements.**

The California Highway Patrol proposes to repeal this section.

##### **Section 1339.4 Test Requirements for Bunk Stakes for Large Logs.**

The California Highway Patrol proposes to repeal this section.

##### **Section 1339.5 Test Requirements for Bunk Stakes for Small Logs.**

The California Highway Patrol proposes to repeal this section.

##### **Section 1339.6 Bunk Stake Width.**

The California Highway Patrol proposes to repeal this section.

#### **Article 5. Junk and Scrap Metal-Loading, Securement, and Transportation**

##### **Section 1340 Scope of Regulations.**

The California Highway Patrol proposes to repeal this section.

##### **Section 1341 Definitions and General Provisions.**

The California Highway Patrol proposes to repeal this section.

##### **Section 1342 Junk and Scrap Metal (Including baled vehicle Bodies) Loading and Securement.**

The California Highway Patrol proposes to repeal this section.

##### **Section 1343 Unbaled Vehicle Body Loading and Securement.**

The California Highway Patrol proposes to repeal this section.

##### **Section 1344 Alternate Method of Compliance.**

The California Highway Patrol proposes to repeal this section.

#### **Article 6. Steel Coils-Loading, Securement, and Transportation**

##### **Section 1350 Scope of Regulations.**

The California Highway Patrol proposes to repeal this section.

##### **Section 1351 Definitions.**

The California Highway Patrol proposes to repeal this section.

**Section 1352 General Provisions.**

The California Highway Patrol proposes to repeal this section.

**Section 1353 Horizontal Eye Coils-Loading and Blocking Requirements.**

The California Highway Patrol proposes to repeal this section.

**Section 1354 Horizontal Eye Coils-Application of Binders.**

The California Highway Patrol proposes to repeal this section.

**Section 1355 Vertical Eye Coils.**

The California Highway Patrol proposes to repeal this section.

**Section 1356 Alternate Method of Compliance.**

The California Highway Patrol proposes to repeal this section.

**Article 7. Steel Plate, Sheet, and Tinplate-Loading and Securement**

**Section 1360 Scope of Regulations.**

The California Highway Patrol proposes to repeal this section.

**Section 1361 Definitions.**

The California Highway Patrol proposes to repeal this section.

**Section 1362 General Provisions.**

The California Highway Patrol proposes to repeal this section.

**Section 1363 Securement of Loads.**

The California Highway Patrol proposes to repeal this section.

**Section 1364 Securing of Lifts.**

The California Highway Patrol proposes to repeal this section.

**Section 1365 Stacking of Lifts.**

The California Highway Patrol proposes to repeal this section.

**Section 1366 Alternate Method of Compliance.**

The California Highway Patrol proposes to repeal this section.

**Article 8. Empty Wooden Boxes-Loading, Securement, and Transportation**

**Section 1370 Scope of Regulations.**

The California Highway Patrol proposes to repeal this section.

**Section 1371 Definitions.**

The California Highway Patrol proposes to repeal this section.

**Section 1372 General Provisions.**

The California Highway Patrol proposes to repeal this section.

**Section 1373 Construction of Loads.**

The California Highway Patrol proposes to repeal this section.

**Section 1374 Securement of Loads.**

The California Highway Patrol proposes to repeal this section.

**Section 1375 Alternate Method of Compliance.**

The California Highway Patrol proposes to repeal this section.

**Article 9. Detachable Freight Vans or Tank Containers-Loading, Securement, and Transportation**

**Section 1400 Scope of Regulations.**

The California Highway Patrol proposes to repeal this section.

**Section 1401 Definitions.**

The California Highway Patrol proposes to repeal this section.

**Section 1402 Stability of Loads.**

The California Highway Patrol proposes to repeal this section.

**Section 1403 Binder Requirements.**

The California Highway Patrol proposes to repeal this section.

**Section 1404 Transportation and Securement on Frame-or Chassis-Type Vehicles.**

The California Highway Patrol proposes to repeal this section.

**Section 1405 Transportation and Securement on Flatbed Vehicles.**

The California Highway Patrol proposes to repeal this section.

**Section 1406 Alternate Method of Compliance.**

The California Highway Patrol proposes to repeal this section.

**Article 10. Lumber and Lumber Products-Safe Loading, Securement, and Transportation**

**Section 1410 Scope of Regulations.**

The California Highway Patrol proposes to repeal this section.

**Section 1411 Definitions.**

The California Highway Patrol proposes to repeal this section.

**Section 1412 General Provisions.**

The California Highway Patrol proposes to repeal this section.

**Section 1413 Racks.**

The California Highway Patrol proposes to repeal this section.

**Section 1414 V-Boards.**

The California Highway Patrol proposes to repeal this section.

**Section 1415 Cab Protection.**

The California Highway Patrol proposes to repeal this section.

**Section 1416 Loading and Securement of Lumber and Lumber Products.**

The California Highway Patrol proposes to repeal this section.

**Section 1417 Loading and Securement of Specific Products.**

The California Highway Patrol proposes to repeal this section.

**Section 1418 Alternate Method of Compliance.**

The California Highway Patrol proposes to repeal this section.

**Article 11. Liquids in Collapsible Containers-Securement, and Transportation**

With the repeal of Articles 2 through 15, the California Highway Patrol proposes to re-number this from Article 11 to **Article 2**, and re-number each section as specified below.

**Section 1420 Scope.**

The California Highway Patrol proposes to re-number this to Section **1400**.

**Section 1421 Identification.**

The California Highway Patrol proposes to re-number this to Section **1401**.

**Section 1422 Retest and Repair.**

The California Highway Patrol proposes to re-number this to Section **1402**.

**Section 1423 Restraints.**

The California Highway Patrol proposes to re-number this to Section **1403**.

**Section 1424 Transportation of Flammables.**

The California Highway Patrol proposes to re-number this to Section **1404**.

**Section 1425 Alternate Standards.**

The California Highway Patrol proposes to re-number this to Section **1405**.

**Article 15. Lumber and Lumber Products-Safe Loading, Securement, and Transportation**

The California Highway Patrol proposes to repeal this article.

## **STUDIES/RELATED FACTS**

This rulemaking is in response to California being required by the State Legislature to adopt loading regulations identical to those contained in federal regulations.

The costs of necessary tiedowns to secure cargo are going to be minimal to the commercial industry. Most tiedowns currently in use are acceptable in the newly adopted federal cargo standards listed in Title 49, Code of Federal Regulations, Part 393.

A cost analysis using several different securement methods with an average of four securement systems for each vehicle shows the price to the commercial industry would vary from \$80.00 per vehicle for 2" ratcheting straps to \$330.00 per vehicle for 20" lengths of chain including chain binders.

One commodity specific example of how the newly adopted Title 49, Federal Loading Regulations compare to Title 13, California Code of Regulations - A logging truck loaded with three 45' long logs stacked pyramid style:

Title 13, California Code of Regulations, Chapter 7, Article 4, Section 1335, Subsection (b) More than one log in height states: "Loads two or more logs or poles in height shall have **four** binders, as evenly spaced as practicable, secured to each side of the vehicle".

Title 49, Federal Motor Carrier Safety Regulations, Part 393.116(a)(2) states: "Loads that consist of no more than four processed logs may be transported in accordance with the general cargo securement rules of 393.100 through 393.114." 393.110(b) states: "When an article is not blocked or positioned to prevent movement in the forward direction by a headerboard, bulkhead, other cargo that is positioned to prevent movement, or other appropriate blocking devices, it must be secured by at least:

(1) One tiedown for articles 5 feet (1.52 meters) or less in length, and 1,100 pounds (500 kg) or less in weight;

(2) Two tiedowns if the article is:

(2)(i) 5 feet (1.52 meters) or less in length and more than 1,100 pounds (500 kg) in weight; or

(2)(ii) Longer than 5 feet (1.52 meters) but less than or equal to 10 feet (3.04 meters) in length, irrespective of the weight.

(3) Two tiedowns if the article is longer than 10 feet (3.04 meters), and one additional tiedown for every 10 feet (3.04 meters) of article length, or fraction thereof, beyond the first 10 feet (3.04 meters) of length."

Therefore, according to Title 49, Federal Loading Regulations, the load would require six binders.

## **LOCAL MANDATE**

These regulations pose the same mandates on local agencies and school districts for general cargo securement as it would for industry.

## **IMPACT ON BUSINESSES**

The California Highway Patrol has not identified any significant adverse impact on businesses. These changes either maintain reasonable exceptions for carriers not directly subject to federal jurisdiction (to minimize the impact on business) or they simply adopt federal regulations, by publishing date, that already apply to the majority of the regulated community. A conflict between state and federal regulations is thereby eliminated.

## **ALTERNATIVES**

The California Highway Patrol has not identified any alternative, including the “No Action” alternative, that would be more effective and less burdensome for the purpose for which this action is proposed. Additionally, the California Highway Patrol has not identified any alternative which would be as effective and less burdensome to affected persons other than the action being proposed.

### *Alternatives Identified and Reviewed*

1. Amend the existing regulations for consistency with the federal regulations.
2. Change statutes to directly require compliance with federal motor carrier safety regulations as these regulations now exist or are hereafter amended, in lieu of the existing delegation of rulemaking prescribed in Sections 2402 and 34500.3 VC. This alternative would eliminate the present state regulatory mechanism which provides for the adoption of exceptions to the Federal Motor Carrier Safety Regulations presently adopted by reference in 13 CCR. The California Highway Patrol also retains discretion to promulgate regulations and/or exceptions for carriers not subject to federal jurisdiction (i.e., non-commercial or governmental).
3. Make no changes to the existing regulations. This could result in federal preemption of California's Motor Carrier Safety Regulations. If preempted, the state could not enforce any of these regulations as they apply to transportation in commerce, thus jeopardizing public safety and environmental protection. Failure to maintain consistency with the Federal Motor Carrier Safety Regulations would also jeopardize federal Motor Carrier Safety Assistance Program grants used for commercial vehicle enforcement and training. The loss of all or a portion of this funding would in itself represent a negative impact on public safety.

## **ECONOMIC IMPACT**

The Department has determined these regulation amendments will result in:

- No increased costs for motor carriers directly subject to federal jurisdiction as previously discussed. This rulemaking action will simply allow the state to enforce federal regulations that already apply, but are enforced currently only by federal inspectors who, in some cases, apply more severe federal penalties.
- A minimal initial cost will be incurred by some intrastate carriers for the possible procurement of additional securement devices to meet compliance standards.
- No discernible adverse impact on the quantity and distribution of goods and services to large and small businesses or the public.
- No impact on the level of employment in the state.
- No adverse impact on the competitiveness of this state to retain businesses, as the majority of other states (especially neighboring) have already adopted these or similar requirements.
- Cargo not otherwise currently regulated will be secured in a safe manner possibly reducing the number of incidents of spilled and damaged cargo thereby reducing accidents and insurance claims.